

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

MDL NO. 1456

CIVIL ACTION: 1:01-CV-12257-PBS

THIS DOCUMENT RELATES TO:

Judge Patti B. Saris

State of California, et al. v.
Abbott Laboratories, et al.,
CIVIL ACTION NO. 1:03-CV-11226-PBS

[PROPOSED] SCHEDULING ORDER

WHEREAS, on July 28, 1998, Ven-A-Care of the Florida Keys, Inc. ("Ven-A-Care") filed an action under the *qui tam* provisions of the California False Claims Act. The Complaint was filed under seal in the Superior Court of the State of California and was later amended, and styled *The State of California ex rel. Ven-A-Care of the Florida Keys, Inc., a Florida Corporation, by and through its principal officers and directors, Zachary T. Bentley and Mark T. Jones v. Abbott Laboratories; [other defendants under seal]; Wyeth Pharmaceuticals Inc.; Wyeth Inc.* On January 7, 2003, the State of California intervened in the case and filed a complaint against Abbott Laboratories ("Abbott") and Wyeth Inc. and Wyeth Pharmaceuticals Inc. (collectively, "Wyeth").

WHEREAS, on March 31, 2003, Abbott removed the above-captioned action to the United States District Court for the Central District of California; Wyeth consented. On April 14, 2003, the State of California and Ven-A-Care (collectively, "plaintiffs") filed a Motion to

Remand. On May 29, 2003, defendants filed a preliminary opposition to plaintiffs' motion to remand, but reserved the right to brief the remand issue fully when a hearing was set on plaintiffs' motion. This case was transferred to this Court by the Judicial Panel on Multidistrict Litigation on June 30, 2003. Thereafter, on August 7, 2003, counsel for the State of California sent a letter to this Court requesting a hearing on plaintiffs' motion to remand. The Court set the plaintiffs' motion to remand for hearing on September 18, 2003 at 3:00 p.m.

WHEREAS, the parties have agreed to re-brief the motion for remand prior to the September 18, 2003 hearing. The parties further have agreed that re-briefing this matter will not render untimely the motion for remand filed by plaintiffs on April 14, 2003. The parties met and conferred, and agreed to the entry of this proposed order.

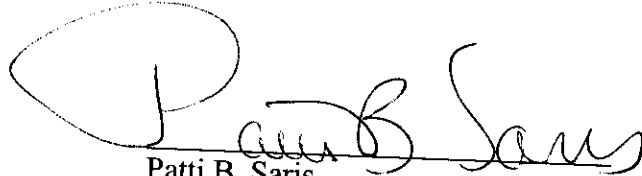
IT IS HEREBY ORDERED as follows:

1. The parties shall file new briefing on the plaintiffs' motion for remand, to replace the briefing contained in the file transferred to this Court from the United States District Court for the Central District of California.
2. Plaintiffs shall file a memorandum in support of their motion for remand by August 29, 2003. The memorandum shall not exceed twenty (20) pages.
3. Defendants shall file an opposition to plaintiffs' motion for remand by September 5, 2003. The opposition shall not exceed twenty (20) pages.
4. Plaintiffs shall file a reply by September 9, 2003. The reply shall not exceed seven (7) pages.
5. Defendants shall file a sur-reply by September 12, 2003. The sur-reply shall not exceed seven (7) pages.

6. The Court shall conduct a hearing on plaintiffs' remand motion on September 18, 2003 at 3:00 p.m.

DATED:

9/3
~~August~~, 2003


Patti B. Saris
United States District Judge